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### ENVIRONMENTAL PROTECTION AGENCY

#### **40 CFR Part 52**

[EPA-R10-OAR-2012-0078; FRL-9722-9]

Approval and Promulgation of State Implementation Plans: State of Washington; Regional

Haze State Implementation Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

SUMMARY: EPA is taking final action to approve the Best Available Retrofit Technology (BART) determination for NOx for the TransAlta Centralia Generation LLC coal-fired power plant in Centralia, Washington (TransAlta). The Washington State Department of Ecology (Ecology) submitted its Regional Haze State Implementation Plan (SIP) on December 22, 2010 to meet the requirements of the Clean Air Act Regional Haze Rule at 40 CFR 50.308. On December 29, 2011 Ecology submitted an update to the SIP submittal containing a revised and updated BART determination for TransAlta. On May 23, 2012, EPA proposed to approve the portion of the revised SIP submission containing the BART determination for TransAlta.77 FR 30467. EPA plans to act on the remaining Regional Haze SIP elements for Washington in the near future.

**DATES:** This action is effective on [Insert date 30 days from date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R10-OAR-2012-0078. Generally documents in the docket are available at <a href="http://www.regulations.gov">http://www.regulations.gov</a> or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics,

AWT-107, 1200 Sixth Avenue, Seattle, Washington 98101. Please note that while many of the documents in the docket are available electronically at <a href="http://www.regulations.gov">http://www.regulations.gov</a>, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, large maps or voluminous materials, is not placed on the Internet and will be publicly available only at the hard copy location. To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

**FOR FURTHER INFORMATION CONTACT:** Steve Body, (206) 553-0782, or by email at body.steve@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean the EPA. Information is organized as follows:

# I. What is the background for this final action?

Ecology submitted its Regional Haze SIP on December 22, 2010 to meet the requirements of 40 CFR 50.308. On December 29, 2011 Ecology submitted an update to the SIP submittal containing a revised and updated BART determination for TransAlta. On May 23, 2012, EPA proposed to approve the portion of the SIP submission containing the BART determination for NOx at TransAlta.

The TransAlta power plant, located in Centralia, Washington, is a two unit coal-fired power plant rated at 702.5 MW each, when burning coal from the Centralia coalfield as originally designed. The units now burn coal from the Wyoming Powder River Basin and are rated at 670 MW each. As explained in the proposal, these Units are subject to BART. The Regional Haze SIP revision imposes as BART a NOx emission limitation of 0.21 lb/MMBtu for each unit based on the installation of selective noncatalytic reduction on both coal-fired units

plus Flex Fuel. It also requires a one year performance optimization study and lowering the emission limits based on the study results. Additionally, the BART determination requires one unit to cease burning coal by December 31, 2020 and the second unit by December 31, 2025 unless Ecology determines that state or federal law requires selective catalytic reduction to be installed on either unit.

A detailed explanation of the Regional Haze Rule, the BART requirements, Ecology's BART determination for TransAlta and EPA's reasons for approving this SIP revision were provided in the notice of proposed rulemaking on May 23, 2012 and will not be restated here.

## II. What is our response to comments received on the notice of proposed rulemaking?

The public comment period for EPA's proposal to approve the TransAlta BART determination closed on June 22, 2012. EPA received only one comment on its proposal. The comment, from TransAlta, encouraged EPA to approve the BART determination for NOx as proposed.

## III. What action is EPA taking?

EPA is approving the NOx emissions BART determination for TransAlta.

# IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork
   Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate,
   disproportionate human health or environmental effects, using practicable and legally
   permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
   In addition, this rule does not have tribal implications as specified by Executive Order

13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Consistent with EPA policy, EPA nonetheless provided a consultation opportunity to Tribes in Idaho, Oregon and Washington in letters dated January 14, 2011. EPA received one request for consultation, and we have followed-up with that Tribe.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the <u>Federal Register</u>. A major rule cannot take effect until 60 days after it is published in the <u>Federal Register</u>. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

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List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, , Incorporation by reference, Intergovernmental

relations, Nitrogen Oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur

oxides, Visibility. Volatile organic compounds.

Dated: August 20, 2012

Dennis J. McLerran, Regional Administrator,

Region 10.

40 CFR part 52 is amended as follows:

PART 52--[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart WW-Washington

2. Section 52.2470 is amended by adding paragraph (c)(89) to read as follows:

§ 52.2470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

- (89) On December 29, 2011, the Washington State Department of Ecology submitted a Best Available Retrofit Technology (BART) determination and revised BART Order 6426 for the TransAlta Centralia Generating LLC facility in Centralia, Washington.
- (i) Incorporation by reference.
- (A) State of Washington, Department of Ecology, Order 6426, first revision, "BART Emission Limitations," issued to TransAlta Centralia Generation, LLC, dated December 13, 2011, except the undesignated introductory text, the section titled "Findings," and the undesignated text following condition 13.
- 3. Section 52.2475 is amended by adding paragraph (g)(2) to read as follows: §52.2475 Approval of plans.

\* \* \* \* \*

- (g) \* \* \*
- (2) EPA approves the Best Available Retrofit Technology (BART) determination for the TransAlta Centralia Generating LLC facility in Centralia Washington submitted by the Washington State Department of Ecology on December 29, 2011.

[FR Doc. 2012-29397 Filed 12/05/2012 at 8:45 am; Publication Date: 12/06/2012]